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Clerk of the Superior Court
By Maarit H Nordman, Deputy Clerk

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAY 13 2011

ALAN CARLSON, Clerk of the Court

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BY *C. Carr*

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7 ANAHI MATLALA and the Putative Class

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ORANGE, CIVIL COMPLEX CENTER**

11 MARIA MARTINEZ and ANAHI)
12 MATLALA, individually and on behalf of
others similarly situated,

13 Plaintiffs

14 vs.

15 BLOOMFIELD BAKERS, a California
16 Limited Partnership; DOES 1 to 100,
inclusive,

17 Defendants

Case No. 30-2010-000382146-CU-OE-CXC

Hon. David C. Velasquez
Dept. CX101

CLASS ACTION

FIRST AMENDED COMPLAINT FOR:

1. Failure to Pay Wages, Regular Rate and Overtime (*Lab. Code* §§ 1194, 510, 204, 221-223,
2. Failure to Provide, and Pay for Missed Meal Periods and Rest Breaks (*Lab. Code* §§ 226.7, 512);
3. Failure To Pay Compensation at the Time of Termination (*Lab. Code* §§201-203);
4. Failure to Provide Proper Wage Statement (*Lab. Code* § 226);
5. Violation of California *Business and Professions Code* §17200.

DEMAND FOR JURY TRIAL

Complaint Filed: 6/17/10
Trial Date: None

*Ok to file per stipulation
filed 5/13/11 CX101*

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1 Comes now the plaintiffs, on their own behalf, and on behalf of all similarly situated persons,
2 and for causes of action against defendants, and each of them allege on information and belief (except
3 those allegations relating to plaintiffs themselves, which are asserted on personal knowledge) as
4 follows:

5 INTRODUCTION

6 1. This matter is brought as a class action pursuant to California Code of Civil Procedure § 382,
7 on behalf of plaintiffs and the proposed plaintiff class, which is defined more specifically below, but
8 which is comprised, generally, of all former and current non-exempt employees who work, or have
9 worked for Bloomfield Bakers, and Does 1 to 100, in the state of California during the proposed class
10 period, which is from June 17, 2006, to the present, and continuing until judgment is rendered herein.

11 2. Plaintiffs seek relief on behalf of themselves, and the members of the proposed plaintiff class,
12 as a result of employment policies, practices and procedures more specifically described below,
13 which violate the California *Labor Code*, and the orders and standards promulgated by the California
14 Department of Industrial Relations, Industrial Welfare Commission, and Division of Labor
15 Standards, and which have resulted in the failure of defendants to pay plaintiff and members of the
16 plaintiff class all wages due to them. Said employment policies, practices and procedures are
17 generally described as follows:

- 18 a. Failing to pay plaintiffs for all hours worked by rounding the actual hours worked by
19 plaintiffs and members of the proposed plaintiff class in such a manner as to be
20 consistently to the detriment of the employee, and by writing down, or off time worked by
21 plaintiffs and members of the proposed Plaintiff Class, thus resulting in failure to pay
22 wages earned at the minimum wage rate, at the agreed upon rate, and at the mandated
23 overtime rate, in violation of California *Labor Code* §§ 500, *et seq.*, 1194, 1198, 510, 204,
24 221-223, and the regulations and wage orders promulgated under the *Labor Code*;
- 25 b. Failing to provide plaintiffs and members of the proposed Plaintiff Class with statutorily
26 mandated rest breaks and meal periods, and failing to compensate them for said missed
27 rest breaks and meal periods, in violation of *Labor Code* §§ 226.7 and 512;
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- 1 c. Failing to pay plaintiffs and members of the proposed Terminated Sub-Class all wages
2 due them upon termination of their employment, in violation of *Labor Code* §§ 201-203;
3 d. Failing to provide plaintiffs and members of the proposed Plaintiff Class accurate wage
4 statements as required by *Labor Code* § 226.

5 3. In addition, plaintiffs and members of the proposed Plaintiff Class seek relief and damages
6 for defendants' violation, by way of the above-described conduct, of California's unfair competition
7 laws (*Business & Professions Code* § 17200), including the equitable remedies of declaratory relief,
8 disgorgement, accounting, and restitution.

9 **JURISDICTION**

10 4. This Court has jurisdiction over this matter pursuant to the provisions of the California *Labor*
11 *Code*, as well as *Business & Professions Code* § 17200. Venue is proper in Orange County because
12 the conduct alleged herein which gives rise to the claims asserted occurred within Orange County.
13 Specifically, plaintiffs Maria Martinez and Anahi Matlala worked for defendant Bloomfield Bakers
14 within Orange County, and the wages herein claimed were earned by them in Orange County.

15 **THE PARTIES**

16 5. At all times mentioned herein plaintiffs Maria Martinez and Anahi Matlala were, and are now
17 residents of the State of California and County of Orange.

18 6. Plaintiff Anahi Matlala began her employment with defendant Bloomfield Bakers in 2003,
19 and plaintiff Maria Martinez began her employment with defendant Bloomfield Bakers in 2005.
20 Both named plaintiffs' employment with defendant ended in June, 2010. Both were employed by
21 defendants as non-exempt laborers, at defendants' facilities in Los Alamitos, California.

22 7. The members of the proposed plaintiff class are likewise current and former non-exempt
23 employees of defendants, employed by defendants within the state of California in various titles and
24 positions.

25 8. Plaintiffs are informed and believe and thereon allege that defendant Bloomfield Bakers
26 ("Bloomfield") is, and was at all times relevant herein a California limited partnership with its
27 principle place of business at 10711 Bloomfield, Los Alamitos, California.

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1 9. Defendants Bloomfield Bakers, and Does 1 to 100, at all times relevant herein, jointly
2 employed, engaged, suffered, and permitted plaintiffs, and members of the proposed plaintiff class to
3 work at their jointly owned, and controlled facilities. At all times relevant herein, Bloomfield and
4 Does 1 to 100 jointly benefitted from the labors of plaintiffs' efforts, and the labors of members of
5 the proposed plaintiff class, controlled the wages, hours and working conditions of said employees,
6 and jointly had, and exercised the ability to establish and enforce the illegal labor practices and
7 policies herein alleged, as well as jointly having the ability to prevent such illegal practices and
8 policies from occurring.

9 10. Plaintiffs are ignorant of the true names, capacities, relationships and extent of participation in
10 the conduct herein alleged of the defendants sued herein as Does 1 to 100, inclusive, but on
11 information and belief allege that said defendants are in some manner legally responsible for the
12 unlawful actions, policies, and practices alleged herein, and therefore sue such defendants by such
13 fictitious names. Plaintiffs are informed and believe, and thereon allege that each defendant named
14 herein was the agent of the other, and the agent of all defendants. Plaintiffs are further informed and
15 believe, and thereon allege that each defendant was acting within the course and scope of said agency
16 at all relevant times herein, for the benefit of themselves, each other, and the other defendants, and
17 that each defendant's actions as alleged herein was authorized and ratified by the other defendants.

18 **FACTUAL ALLEGATIONS**

19 11. Plaintiffs incorporate herein by reference the allegations set forth above in paragraphs 1
20 through 10.

21 12. Plaintiffs, and members of the proposed plaintiff class are classified by defendants as non-
22 exempt employees, pursuant to the provisions of California *Labor Code*, and the orders and standards
23 promulgated by the California Department of Industrial Relations, Industrial Welfare Commission,
24 and Division of Labor Standards, including applicable wage orders. As non-exempt employees,
25 plaintiffs and members of the plaintiff class were, and are entitled to the benefit of the applicable
26 minimum wage rate, and to payment for all hours worked, and premium overtime wages for overtime
27 hours worked, as well as mandated meal and rest periods, as provided by said statutes, regulations,
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1 and wage orders. In addition, said statutory provisions, wage orders, regulations and standards
2 obligate the employer to maintain accurate records of the hours worked by employees.

3 13. The hours actually worked by plaintiffs and members of the proposed plaintiff class and
4 reported to defendants for payroll purposes were, and are, as a matter of policy and practice, rounded
5 in standard increments, usually to the nearest quarter hour. Plaintiffs and members of the proposed
6 plaintiff class are required by defendants to clock in, and begin working before, or at their scheduled
7 start time, and are prohibited from clocking out, and ending their work prior to the scheduled end of
8 their shift. The time that they spend working before their shift is scheduled to start is typically
9 rounded up, and the time they work after their scheduled end time is typically rounded back. Thus,
10 defendant's rounding policy and practices consistently work to the detriment of plaintiffs and
11 members of the proposed plaintiff class because they are not paid for the time that is rounded off. In
12 addition, the hours actually worked by plaintiffs and members of the proposed plaintiff class and
13 reported to defendants for payroll purposes were, and are written down, and altered by defendants.
14 Consequently, the wages paid by defendants do not fully compensate plaintiffs and members of the
15 proposed plaintiff class for all hours worked, as a result of which, plaintiff and members of the
16 proposed plaintiff class were not paid the statutorily mandated minimum wages, or the rate of pay
17 agreed upon, or the proper overtime premium rate, where the unrecorded and unpaid hours worked
18 were overtime.

19 14. Plaintiffs and the members of the proposed plaintiff class were, and are routinely required to
20 work without the mandated meal and rest breaks required by the *Labor Code*, and applicable wage
21 orders enacted pursuant thereto, nor have defendants compensated them for said missed breaks.
22 Specifically, plaintiffs and members of the proposed plaintiff class are not permitted a proper, 30-
23 minute uninterrupted meal period after five hours, and a second meal period after ten hours. While
24 an unpaid first meal period is provided, plaintiffs and members of the proposed plaintiff class are not
25 permitted 30-minutes, but rather are typically provided something less than 30 minutes for a meal
26 period. Furthermore, plaintiffs and members of the proposed plaintiff class are not permitted to leave
27 the defendants' premises during their unpaid meal period. A second meal period after ten hours is
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1 not permitted at all. Likewise, plaintiffs and members of the proposed plaintiff class are not
2 permitted proper rest breaks.

3 15. Plaintiffs and members of the proposed plaintiff class were, and are routinely provided wage
4 statements by defendants which do not truly and accurately reflect the number of hours worked by
5 them, or the wages due to them, specifically including but not limited to, failing to reflect
6 compensation due for all hours worked, failing to reflect proper overtime wages due and owing, and
7 failing to reflect wages due for missed meal and rest breaks. During the proposed Class Period,
8 defendants have had a consistent policy of failing to provide plaintiff and members of the proposed
9 plaintiff class true and accurate wage statements upon payment of wages, as required by *California*
10 *Labor Code* § 226(a).

11 16. Plaintiffs and members of the proposed Terminated Sub-Class, whose employment with
12 defendants was terminated during the proposed Class Period, were routinely not paid, upon
13 termination, all wages due to them, in violation of *California Labor Code* § 201-203. Specifically,
14 members of the proposed Terminated Sub-Class were not paid for all hours worked at the regular and
15 overtime rate, and were not paid for missed meal and rest breaks. During the proposed Class Period,
16 and continuing to the present, defendants have had a consistent policy of failing to provide members
17 of the proposed Terminated Sub-Class all wages due to them upon termination.

18 17. The wage and hour violations herein alleged were and are willful and deliberate, and were
19 taken pursuant to, and resulted from defendants' policies, patterns and practices, which defendants
20 applied uniformly to plaintiffs and all members of the proposed plaintiff class, and which have
21 resulted in the unjust enrichment of defendants at the expense of plaintiffs and members of the
22 proposed plaintiff class.

23 18. As a direct result of the wage and hour violations herein alleged, plaintiffs and members of
24 the proposed plaintiff class have suffered, and will continue to suffer substantial losses related to the
25 use and enjoyment of wages, lost interest on such wages, and expenses and attorney's fees in seeking
26 to compel defendants to fully perform their obligations under state law, all to their respective damage
27 in amounts according to proof at the time of trial.

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1 CLASS ACTION ALLEGATIONS

2 19. Plaintiffs incorporate herein by reference the allegations set forth above in paragraphs 1
3 through 19.

4 20. Plaintiffs brings this action on behalf of themselves and all others similarly situated as a class
5 action, pursuant to *California Code of Civil Procedure* § 382. The class which plaintiffs seek to
6 represent is composed of, and defined as follows:

7 Plaintiff Class:

8 All employees who were or are employed by defendants during the Class Period
9 in California as "non-exempt employees," excluding managers. As used in this
10 class definition, the term "non-exempt employee" refers to those employees who
11 defendants classified as non-exempt from the overtime wage provisions of the
12 *Labor Code*.

13 Terminated Misclassification Sub-Class:

14 All members of the Plaintiff Class whose employment ended during the Class
15 Period.

16 21. The Class Period is the period from June 17, 2006, through and including the date judgment
17 is rendered in this matter.

18 22. The class is so numerous that the individual joinder of all members is impracticable. While
19 the exact number and identification of class members are unknown to plaintiffs at this time and can
20 only be ascertained through appropriate discovery directed to defendants, plaintiffs are informed and
21 believe that the class includes potentially hundreds of members.

22 23. Common questions of law and fact exist as to all members of the class which predominate
23 over any questions affecting only individual members of the class. These common legal and factual
24 questions, which do not vary from class member to class member, and which may be determined
25 without reference to the individual circumstances of any class member, include, but are not limited
26 to, the following:

- 27 a. Whether plaintiffs and members of the proposed class are subject to and entitled to the
28 benefits of California wage and hour statutes;

- 1 b. Whether defendants had a standard practice, policy and/or procedure of writing down, or
2 off time recorded by plaintiffs and members of the proposed plaintiff class as having been
3 worked;
- 4 c. Whether defendants had a standard practice, policy and/or procedure of paying plaintiffs
5 and members of the proposed plaintiff class for less than the actual hours they reported as
6 having worked;
- 7 d. Whether defendants had a standard policy and practice of denying plaintiff and members
8 of the plaintiff class proper meal and rest breaks;
- 9 e. Whether defendants had a standard policy and practice of failing to compensate plaintiff
10 and members of the plaintiff class for missed meal and rest periods;
- 11 f. Whether defendants maintained accurate records of the hours worked by employees;
- 12 g. Whether defendants had a standard policy and practice of failing to provide plaintiffs and
13 members of the plaintiff class with true and proper wage statements upon payment of
14 wages, in violation of *Labor Code* § 226;
- 15 h. Whether defendants had a standard policy and practice of failing to promptly pay
16 compensation owing to plaintiff and members of the Terminated Sub-Class upon
17 termination of their employment, in violation of *Labor Code* §§ 201-203;
- 18 i. Whether plaintiffs and members of the proposed plaintiff class sustained damages, and if
19 so, the proper measure of such damages, as well as interest, penalties, costs, attorneys'
20 fees, and equitable relief; and
- 21 j. Whether defendants' conduct as alleged herein violates the Unfair Business Practices Act
22 of California, *Bus. & Prof. Code* § 17200, et seq.

23 24. The claims of the named plaintiffs are typical of the claims of the members of the proposed
24 class. Plaintiffs and other class members sustained losses, injuries and damages arising from
25 defendants' common policies, practices, procedures, protocols, routines, and rules which were
26 applied to other class members as well as plaintiffs. Plaintiffs seek recovery for the same type of
27 losses, injuries, and damages as were suffered by other members of the proposed class.

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1 25. Plaintiffs are adequate representatives of the proposed class because they are members of the
2 class and their interests do not conflict with the interests of the members they seek to represent.
3 Plaintiffs have retained competent counsel, experienced in the prosecution of complex class actions,
4 and together plaintiffs and their counsel intend to prosecute this action vigorously for the benefit of
5 the class. The interests of the class members will fairly and adequately be protected by plaintiffs and
6 their attorneys.

7 26. A class action is superior to other available methods for the fair and efficient adjudication of
8 this litigation since individual litigation of the claims of all class members is impracticable. It would
9 be unduly burdensome to the courts if the claims herein asserted were to proceed on an individual
10 basis by each member of the proposed plaintiff class, because this would potentially result in
11 hundreds of individual, repetitive lawsuits. Individual litigation presents the potential for inconsistent
12 or contradictory judgments, and the prospect of a "race to the courthouse," and an inequitable
13 allocation of recovery among those with equally meritorious claims. By contrast, the class action
14 device presents far fewer management difficulties and provides the benefit of a single adjudication,
15 economics of scale, and comprehensive supervision by a single court.

16 27. The various claims asserted in this action are additionally or alternatively certifiable under the
17 provisions of the *California Code of Civil Procedure* section 382 because:

18 a. The prosecution of separate actions by hundreds of individual class members would
19 create a risk of varying adjudications with respect to individual class members, thus establishing
20 incompatible standards of conduct for defendants, and

21 b. The prosecution of separate actions by individual class members would also create the
22 risk of adjudications with respect to them that, as a practical matter, would be dispositive of the
23 interests of the other class members who are not a party to such adjudications and would substantially
24 impair or impede the ability of such non-party class members to protect their interests.

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1 **FIRST CAUSE OF ACTION**

2 **(Failure to Pay Wages, Minimum Wages, Regular Rate and Overtime)**

3 **(By All Plaintiffs Against All Defendants)**

4 28. Plaintiffs incorporate herein by reference the allegations set forth above in paragraphs 1
5 through 27.

6 29. By rounding down, and by writing down, and off the actual time worked by plaintiffs and
7 members of the proposed plaintiff class during the Class Period, defendants failed to pay plaintiffs
8 and members of the proposed plaintiff class all wages due to them, including all wages due at the
9 minimum wage rate, and at the agreed rate, in violation of the California *Labor Code*, and the
10 regulations and standards promulgated thereunder, including *Labor Code* §§ 500, *et seq.*, 1194, 1198,
11 and 221-223.

12 30. The failure to pay all wages due for actual time worked included hours worked overtime by
13 plaintiffs and members of the proposed plaintiff class, for which they were not paid the overtime
14 premium wages mandated by the *Labor Code*, including §§ 200, 510, 1194 and 1198, and the
15 regulations and wage orders promulgated thereunder.

16 31. Defendants' conduct described herein violates the relevant Wage Orders, and *Labor Code* §§
17 200, 500, 510, 512, 1194, and 1198. Therefore, pursuant to *Labor Code* §§ 221-223, 558, 1194,
18 1198, and Civil Code §§ 3287 and 3289, plaintiffs and members of the proposed Plaintiff Class are
19 entitled to recover the unpaid balance of agreed upon wages and/or overtime compensation based
20 upon the agreed upon wage rate, plus interest, penalties, attorney's fees, expenses, and costs of suit.

21 **SECOND CAUSE OF ACTION**

22 **(Failure to Provide Proper Meal Periods and Rest Breaks)**

23 **(By All Plaintiffs Against All Defendants)**

24 32. Plaintiffs incorporate herein by reference the allegations set forth above in paragraphs 1
25 through 31.

26 33. *Labor Code* § 226.7(a) provides, "[n]o employer shall require any employee to work during
27 any meal or rest period mandated by an applicable order of the Industrial Welfare Commission."
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1 34. As alleged herein, defendants failed to provide plaintiffs and members of the proposed
2 plaintiff class with statutorily mandated meal periods and rest breaks, and failed to compensate them
3 for such missed meal periods and rest breaks. By these actions, defendants are in violation of *Labor*
4 *Code* § 226.7(a), in the number, length and manner of the breaks mandated by statute and regulation,
5 specifically including but not limited to, Wage Order 7-2001, sections 11 and 12.

6 35. As a result of said violation of the *Labor Code*, plaintiffs and members of the proposed
7 plaintiff class are entitled to recover, pursuant to *Labor Code* § 226.7(b), and the applicable wage
8 orders, a penalty for said missed meal periods and rest breaks in the amount of one additional hour of
9 pay at the employee's regular rate of compensation.

10 36. Defendants' conduct described herein violates the above described Wage Order, and *Labor*
11 *Code* §§ 226.7 and 512. Plaintiff and members of the plaintiff class are thus entitled to recover, and
12 hereby claim, in addition to the unpaid balance of wages defendants owe them, all interest, penalties,
13 attorneys' fees, expenses and costs of suit as permitted by statute, including, as applicable, *Labor*
14 *Code* §§ 201, 202, 203, 204, 210, 221, 223, 225.5, 226, 226.3, 226.7, 227.3, 510, 512, 558, 1194, and
15 1194.2.

16 **THIRD CAUSE OF ACTION**

17 **(Failure to Pay Compensation at the Time of Termination)**

18 **(By All Plaintiffs Against All Defendants)**

19 37. Plaintiffs incorporate herein by reference the allegations set forth above in paragraphs 1
20 through 36.

21 38. California *Labor Code* § 201 requires an employer who discharges an employee to pay
22 compensation due and owing to said employee immediately upon discharge. California *Labor Code*
23 § 202 requires an employer to promptly pay compensation due and owing to an employee within no
24 more than 72 hours of that employee's termination of employment by resignation, and at the time of
25 termination if an employee is involuntarily terminated. California *Labor Code* section 203 provides
26 that if an employer willfully fails to pay compensation promptly upon discharge or resignation in a
27 prompt and timely manner as required by *Labor Code* §§ 201 and 202, respectively, said employer is
28 liable to said employee for a waiting time wage continuation as described therein.

1 39. Defendants have failed and refused to pay to plaintiffs and each member of the Terminated
2 Sub-Class all wages due to them upon termination in compliance with the *Labor Code*, including but
3 not limited to, all wages due for hours worked, minimum wages, overtime premium wages, and
4 wages for missed breaks and meal periods.

5 40. Defendants' willful failure to pay plaintiffs and members of the proposed Terminated Sub-
6 Class all the wages due to them upon termination is in violation of *Labor Code* §§ 201 and 203,
7 which provide that an employee's wages shall continue as a penalty from the due date thereof at the
8 same rate until paid or until an action therefor is commenced, but that the wages shall not continue
9 for more than 30 days. Therefore, plaintiff and members of the Terminated Sub-Class are entitled to
10 a waiting time wage continuation penalty pursuant to *Labor Code* § 203. Additionally, plaintiffs seek
11 costs, interest, disbursements, and attorneys' fees, as provided by statute.

12 **FOURTH CAUSE OF ACTION**

13 **(Failure to Provide Proper Wage Statement)**

14 **(By All Plaintiffs Against All Defendants)**

15 41. Plaintiffs incorporate herein by reference the allegations set forth above in paragraphs 1
16 through 40.

17 42. *Labor Code* §226(a) sets forth reporting requirements for employers when they pay wages, as
18 follows: "Every employer shall . . . at the time of each payment of wages, furnish her or her
19 employees . . . an itemized statement in writing showing (1) gross wages earned; (2) total hours
20 worked by the employee . . . (3) the number of piece-rate units earned and any applicable piece rate if
21 the employee is paid on a piece-rate basis. . . ." Section (e) provides: "An employee suffering injury
22 as a result of a knowing and intentional failure by an employer to comply with subdivision (a) shall
23 be entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period
24 in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
25 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4000), and
26 shall be entitled to an award of costs and reasonable attorney's fees."

27 43. Defendants failed to accurately record the wages due to plaintiffs and members of the
28 proposed plaintiff class, specifically including, but not limited to, by failing to record the total hours

1 worked by the employee, the amount of wages due for all hours worked, the amount of overtime
2 premium due, and wages due for missed rest breaks and meal periods.

3 44. Plaintiffs and members of the proposed plaintiff class were damaged by this failure to provide
4 accurate wage statements because, among other things, they were unable to determine the proper
5 amount of wages actually owed to them, and whether they had received full compensation therefore.

6 45. Plaintiffs and members of the proposed plaintiff class request recovery of *Labor Code* §
7 226(e) penalties according to proof, as well as interest, attorney's fees and costs pursuant to *Labor*
8 *Code* §226(e), and all other damages, attorneys' fees, costs, expenses and interest permitted by
9 statute.

10 **FIFTH CAUSE OF ACTION**

11 **(Unfair Competition: California *Business and Professions Code* § 17200 etc.)**

12 **(By All Plaintiffs, on Behalf of Themselves, and the General Public,**

13 **Against All Defendants)**

14 46. Plaintiffs incorporate herein by reference the allegations set forth above in paragraphs 1
15 through 45.

16 47. Section 17200 of the California *Business and Professions Code* prohibits any unlawful, unfair
17 or fraudulent business act or practice.

18 48. Plaintiffs bring this cause of action in a representative capacity on behalf of the general public
19 and the persons affected by the unlawful and unfair conduct described hereafter. Plaintiffs and
20 members of the proposed class have suffered and continue to suffer injury in fact and monetary
21 damages as a result of defendants' actions.

22 49. The actions by defendants as herein alleged amount to conduct which is unlawful and a
23 violation of law. As such, said conduct amounts to unfair business practices in violation of *Business*
24 *and Professions Code* § 17200 et. seq.

25 50. Defendants' conduct as herein alleged has damaged plaintiffs and the members of the
26 proposed plaintiff class by denying them wages due and payable, and by failing to provide proper
27 wage statements. Defendants' actions are thus substantially injurious to plaintiffs and the members
28 of the proposed plaintiff class, causing them injury in fact and loss of money.

1 51. As a result of such conduct, defendants have unlawfully and unfairly obtained monies due to
2 the plaintiffs and the members of the proposed plaintiff class.

3 52. All members of the proposed plaintiff class can be identified by reference to payroll and
4 related records in the possession of the defendants. The amount of wages due plaintiffs and members
5 of the proposed plaintiff class can be readily determined from defendants' records. The members of
6 the proposed class are entitled to restitution of monies due and obtained by defendants during the
7 Class Period as a result of defendants' unlawful and unfair conduct.

8 53. During the Class Period, defendants committed, and continue to commit acts of unfair
9 competition as defined by § 17200 et. seq. of the *Business and Professions Code*, by and among other
10 things, engaging in the acts and practices described above.

11 54. Defendants' course of conduct, acts, and practices in violation of the California law as
12 mentioned in each paragraph above constitutes a separate and independent violation of §17200 etc. of
13 the *Business and Professions Code*.

14 55. The harm to plaintiffs and the members of the proposed plaintiff class of being wrongfully
15 denied lawfully earned and unpaid wages outweighs the utility, if any, of defendants' policies and
16 practices and, therefore, defendants' actions described herein constitute an unfair business practice or
17 act within the meaning of *Business and Professions Code* § 17200.

18 56. Defendants' conduct described herein threatens an incipient violation of California's wage
19 and hour laws, and/or violates the policy or spirit of such laws, or otherwise significantly threatens or
20 harms competition.

21 57. Defendants' course of conduct described herein further violates *Business and Professions*
22 *Code* 17200 in that it is fraudulent, improper, and unfair.

23 58. The unlawful, unfair, and fraudulent business practices and acts of defendants as described
24 herein above have injured plaintiffs and members of the proposed plaintiff class in that they were
25 wrongfully denied the timely and full payment of wages due to them.

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PRAYER FOR RELIEF


WHEREFORE, plaintiffs, on behalf of themselves, and on behalf of the members of the proposed plaintiff class, pray for judgment against defendants as follows:

1. For an order certifying the proposed class;
2. For nominal damages;
3. For compensatory damages;
4. For equitable relief in the nature of restitution of all monies due to plaintiffs and members of the proposed plaintiff class, and disgorgement of profits from the unlawful business practices of defendants, and an accounting;
5. For penalties permitted by *Labor Code* §§ 201, 202, 203, 204, 210, 225.5, 223, 226, 226.3, 226, 226.3, 226.7, 227.3, 510, 512, 1194, and 1194.2;
6. For interest accrued to date;
7. For costs of suit and expenses incurred herein pursuant to *Labor Code* §§ 226 and 1194;
8. For reasonable attorney's fees pursuant to *Labor Code* §§ 226 and 1194; and
9. For all such other and further relief that the Court may deem just and proper.

Plaintiff hereby demands a trial by jury.

Dated: 5-12-11

MARLIN & SALTZMAN, LLP

By: 
Lynn P. Whitlock
Attorneys for Plaintiffs and the Proposed Plaintiff Class

**SUMMONS TO FIRST AMENDED COMPLAINT
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

BLOOMFIELD BAKERS, a California Limited Partnership, and **DOES 1 to 50**, inclusive,

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

MARIA MARTINEZ and **ANAHI MATLALA**, individually and on behalf of all others similarly situated,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desear el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): **SUPERIOR COURT OF CALIFORNIA**
County of Orange, Civil Complex Center
751 West Santa Ana Blvd., Santa Ana, CA 92701

CASE NUMBER:
(Número del Caso):
30-2010 00382146-CU-OE-CXC

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Lynn P. Whitlock, Esq. (SBN 127537) Marlin & Saltzman, 3200 El Camino Real, Suite 100, Irvine, CA 92602
(714) 669-4900

DATE: _____ Clerk, by _____ Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
4. by personal delivery on (date):